

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Joan Kathryn Wenger,

Petitioner

v.

William Reubart, et al.,

Respondents

Case No. 2:23-cv-01965-CDS-DJA

Scheduling Order

In this habeas corpus action, on November 30, 2023, the court denied petitioner Joan Kathryn Wenger's *in forma pauperis* application because it was incomplete in that it did not include the required financial certificate. ECF No. 3. On January 12, 2024, Wenger filed a financial certificate, which indicates that Wenger should be granted *in forma pauperis* status. ECF No. 8. Therefore, I will grant Wenger leave to proceed *in forma pauperis* and will not require Wenger to pay the filing fee for this action.

Also on November 30, 2023, the court appointed counsel for Wenger. ECF No. 3. The Federal Public Defender for the District of Nevada then appeared on Wenger's behalf on December 27, 2023. ECF No. 5. Respondents have also appeared. ECF No. 4. It is therefore ordered that the following schedule will govern further proceedings in this action:

If necessary, petitioner must file an amended petition for writ of habeas corpus within 90 days after entry of this order. The amended petition must specifically state whether each ground for relief has been exhausted in state court; for each claim that has been exhausted in state court, the amended petition must state how, when, and where that occurred. If petitioner determines that an amended petition need not be filed, then, within 90 days after entry of this order, petitioner must file a notice to that effect.

Respondents will have 60 days following the filing of the amended petition to file an answer or other response to the amended petition. If petitioner does not file an amended petition, respondents will have 60 days following the due date for the amended petition to file an answer or other response to the original petition.

1 Petitioner will have 45 days following the filing of an answer to file a reply. Respondents
2 will thereafter have 30 days following the filing of a reply to file a response to the reply.

3 If respondents file a motion to dismiss, the petitioner will have 60 days following the
4 filing of the motion to file a response to the motion. Respondents will thereafter have 30 days
5 following the filing of the response to file a reply.

6 If petitioner wishes to move for leave to conduct discovery, petitioner must file such
7 motion concurrently with, but separate from, the response to respondents' motion to dismiss or
8 the reply to respondents' answer. Any motion for leave to conduct discovery filed by petitioner
9 before that time may be considered premature, and may be denied, without prejudice, on that
10 basis. Respondents must file a response to any such motion concurrently with, but separate from,
11 their reply in support of their motion to dismiss or their response to petitioner's reply. Thereafter,
12 petitioner will have 20 days to file a reply in support of the motion for leave to conduct discovery.

13 If petitioner wishes to request an evidentiary hearing, petitioner must file a motion for an
14 evidentiary hearing concurrently with, but separate from, the response to respondents' motion to
15 dismiss or the reply to respondents' answer. Any motion for an evidentiary hearing filed by
16 petitioner before that time may be considered premature, and may be denied, without prejudice,
17 on that basis. The motion for an evidentiary hearing must specifically address why an evidentiary
18 hearing is required and must meet the requirements of 28 U.S.C. § 2254(e). The motion must
19 state whether an evidentiary hearing was held in state court, and, if so, state where the transcript
20 is located in the record. If petitioner files a motion for an evidentiary hearing, respondents must
21 file a response to that motion concurrently with, but separate from, their reply in support of their
22 motion to dismiss or their response to petitioner's reply. Thereafter, petitioner will have 20 days
23 to file a reply in support of the motion for an evidentiary hearing.

24 Dated: January 17, 2024

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27 Cristina D. Silva
28 United States District Judge